

Internal Revenue Service

Department of the Treasury

District
Director

Date: JUN 17 1987
Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for tax-exempt status under section 501(c)(3) of the Internal Revenue Code.

The information submitted with your application Form 1023, shows that your organization, [REDACTED], was incorporated [REDACTED], in the State of [REDACTED].

According to your articles of organization the association was formed for the following purposes:

"Providing a representative group to speak on behalf of the mobile home owners of [REDACTED] and, subject to the restrictions and limitations hereinafter set forth, the Association is constituted for the further purpose of accumulating such fund or funds as may be necessary to support the activities of the Association. The Association is also constituted for the purpose of providing protection under the [REDACTED], relative to mobile home residents. This includes all rights and powers, including the power to negotiate for, acquire and operate the [REDACTED] on behalf of member residents."

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

In order to qualify under IRC 501(c)(3), an organization must be both "organized" and "operated" exclusively for one or more purposes specified in that section. If the organization fails to meet either the organizational test or the operational test, it is not exempt. (Regs. 1.501(c)(3)-1(a)(1)). The organizational test relates to the rules for governing an organization and the purposes stated in its articles of organization. The operational test relates to the organization's activities.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations provides, in part, that an organization is not organized or operated exclusively for one or more of the purposes mentioned in section 501(c)(3) of the Code unless it serves a public rather than a private interest. An organization may not be exempt if it is operated for the benefit of private individuals.

Section 1.501(c)(3)-1(b)(4) of the Regulations states that "an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to the Federal government, or to a State or local government, for a public purpose, or would be distributed by a court to another organization to be used in such manner as in the judgment of the court will best accomplish the general purposes for which the dissolved organization was organized. However, an organization does not meet the organizational test if its articles or the law of the State in which it was created provide that its assets would, upon dissolution, be distributed to its members or shareholders."

In Revenue Ruling 73-306, 1973-2C.B. 185 it was held that a non profit corporation formed to promote the common interests of tenants who resided in an apartment complex by representing its member tenants in negotiations with the management of the complex in order to secure better maintenance and services and to secure reasonable rentals was not exempt under section 501(c)(4). This ruling was based on the conclusion that the organization was operated essentially for the private benefit of its members and was not primarily engaged in activities for the common good and general welfare of the people of the community.

Similarly, your organization was formed for the purpose of "providing a representative group to speak on behalf of the mobile home owners" with the management of the park. Your organization has met with an attorney in order to further your purposes.

Like the organization described in Revenue Ruling 73-306 your organization was formed for the purpose of promoting the common interest of members of the Mobile Park Complex by representing members in negotiations with management to secure better services. Your organization's assets are also not permanently dedicated to exempt purposes within the meaning of section 501(c)(3).

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(3) of the code and propose to deny your request for exemption under that section.

We have also determined that you fail to qualify for exempt status under any other subsection of IRC 501(c).

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

Contributions made to you are not deductible by the donors as charitable contributions as defined in section 170(c) of the Code.

If you do not agree with this determination you may protest in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completions.

If we do not hear from you within that time this determination will be considered final and the appropriate State Officials will be notified.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."



District Director

Enclosure: Publication 892